

**Effective 7/17/2016**

**31A-44-404 Nondisturbance of residents .**

- (1) A person may not directly or indirectly disturb the rights of a resident or third party beneficiary under a continuing care contract and this chapter if the resident has substantially performed the resident's obligations under the continuing care contract.
- (2) If the person to whom a resident owes performance under the continuing care contract is contested, and a court has not issued a temporary or permanent order resolving the contest:
  - (a) the department may appoint a temporary receiver to receive the performance of the resident; and
  - (b) a court may appoint a receiver upon petition by the department.
- (3)
  - (a) Except as provided in Subsection (3)(b), a person other than a resident that holds a present right to possess a facility, including a ground lessor but only after the ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, is bound by every continuing care contract related to the facility, including a continuing care contract that provides for the return of part or all of a resident's entrance fee.
  - (b) If a ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, the ground lessor's obligation under the continuing care contracts is limited to the monetary obligations of the provider to which the ground lessor succeeds.
- (4)
  - (a) The commissioner holds a covenant that:
    - (i) runs with the land on which a facility is located; and
    - (ii) except as provided in Subsection (4)(b), binds a person with a present right to possess the land on which the facility is located, including a ground lessor but only after the ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, to every continuing care contract related to the facility, including a continuing care contract that provides for the return of all or part of a resident's entrance fee.
  - (b) If a ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, the ground lessor's obligation under the continuing care contracts under the covenant described in Subsection (4)(a) is limited to the monetary obligations of the provider to which the ground lessor succeeds.
  - (c) A person may not sell the land on which the facility is located free and clear of the interest described in Subsection (4)(a).
- (5) A person may not sell or transfer the land on which a facility subject to a ground lease is located free and clear of the provider's possessory interest in the ground lease.

Amended by Chapter 8, 2016 Special Session 3